

## **REMARKS**

### **Status of the Claims**

Claims 1-28 were originally filed. Claims 1-13 were elected without traverse in response to the Restriction Requirement on August 1, 2006. Claims 1, 2 and 4-13 stand rejected in the September 20, 2007 Office Action. Accordingly, upon entry of this amendment, claims 1, 2, and 4-13 will be pending. Applicants respectfully request reconsideration and withdrawal of rejection in view of the following remarks.

### **Examiner's Response to Applicant's Arguments**

Applicants first want to respond to the Examiner's response that our arguments, presented in the previous Amendment, were not persuasive. Applicants contacted the Examiner by phone on February 5, 2008 to discuss the Examiner's response to Applicant's arguments and to indicate the claims had been limited in the July 10, 2007 amendment. After a brief discussion with the Examiner, Applicants agreed that they would respond to the outstanding Office Action of September 20, 2007 but to argue that the previous amendment to claim 1 was not considered.

The Examiner states on page 5 of the Office Action that the regarding the rejection under 35 U.S.C. 103 (a), Applicants argue that the prior art references fail teach a melamine-formaldehyde or acrylamide-acrylic acid co-polymer. The Examiner states that Applicant's argument does not commensurate with the scope because the claims do not require any specific monomers of the "polymeric material" other than the cationic properties of the polymer citing claims 5 and 6.

Applicants respectfully point out to the Examiner that in the Amendment filed on July 10, 2007 amended claim 1 to recite, *inter alia*, a capsule particle, comprising: a fragrance; a solvent; and a material encapsulating said fragrance and said solvent, wherein said fragrance and said solvent together have greater than about 60 weight percent with a ClogP of greater than about 3.3; **and wherein said material is selected from the group consisting of a melamine-formaldehyde copolymer, an acrylamide-acrylic acid co-polymer, and mixtures thereof.**

In view of these amendments entered in the Amendment filed on July 10, 2007 Applicants respectfully request the Examiner to reconsider the rejections against the claims made under 35 U.S.C. 103(a).

**Claim Rejections Under 35 U.S.C. § 112**

The Examiner has rejected Claims 1 and 11 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such as way as to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed had possession of the claimed invention.

The Examiner states that the new limitation “wherein said fragrance and said solvent together have greater than about 60 weight percent of a ClogP of greater than about 3.3” does not have support in the original disclosure. Similarly, the limitation in Claim 11, which requires that the core contains a mixture of a fragrance, stabilizer, and a solvent”, wherein greater than about 50% weight percent said mixture has a ClogP of greater than about 3.3 also lacks support.

Applicants respectfully disagree. Support for the amendments to Claim 1 and 11 can be found in paragraph [0028] of the published application states,

“In addition to the fragrance materials that are to be encapsulated in the present invention, the present invention also contemplates the incorporation of solvent materials. The solvent materials are hydrophobic materials that are miscible in the fragrance materials used in the present invention. Suitable solvents are those having reasonable affinity for the fragrance chemicals and a ClogP greater than 3.3, preferably greater than 8 and most preferably greater than 10. Suitable materials include, but are not limited to triglyceride oil, mono and diglycerides, mineral oil, silicone oil, diethyl phthalate, polyalpha olefins, castor oil and isopropyl myristate. In a preferred embodiment the solvent materials are combined with fragrance materials that have high ClogP values as set forth above. It should be noted that selecting a solvent and fragrance with high affinity for each other will result in the most pronounced improvement in stability.”

In paragraph [0069] of the published application which states,

“In this embodiment of the invention a method for increasing the amount of a fragrance within a capsule comprising an aqueous base product that contains surfactant and fragrance, providing a capsule permeable to the fragrance when stored in the base, contained within said **capsule greater than about 60 weight percent components selected from the group consisting of water insoluble solvent and fragrance chemicals having a ClogP value of greater than about 3.3**; storing the aqueous product base and the porous capsule for at least about a week, thereby allowing the fragrance chemicals provided in the aqueous base to be transported through the capsule wall. As further described, the selection of solvents and fragrance chemicals with correct ClogP values results in capsules with higher fragrance loading”.

In view of the support cited in the specification, Applicants respectfully request withdrawal of the rejection under 35 U.S.C 112, first paragraph.

**Claim Rejections Under 35 U.S.C. § 103 - Caswell (U.S. 6,958,313) in view of Bacon (U.S. 5,500,138)**

Claims 1, 2, 4, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell (US 6,958,313 B2) in view of Bacon (US 5,500,138).

It is the Examiner's opinion that the Caswell reference disclosed polyvinyl alcohol film encapsulating enduring fragrance materials for fabric softener and that the reference teaches that it is preferred to have at least 7 different enduring perfume ingredients, meeting the instant Claim 10. The Examiner states that Examples 3-8 show the amount of perfume material added in the fabric softener compositions as recited in Claim 13.

To establish a *prima facie* case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations (*See*, MPEP § 2142).

Applicants respectfully submit that neither Caswell nor Bacon teaches nor suggests a melamine-formaldehyde or an acrylamide-acrylic acid co-polymer, which are claimed as the encapsulating materials in the present invention. Accordingly, at least the first and third criteria for establishing a *prima facie* case of obviousness have not been met. For at least these reasons, Applicants respectfully request that this 35 U.S.C. § 103 rejection be withdrawn.

**Claim Rejections Under 35 U.S.C. § 103 - Caswell In View Of Birch *et al.* (US 6,927,195)**

The Examiner has rejected Claims 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over Caswell as applied to claims 1, 2, 4 and 7-13 as above, and further in view of Birch *et al.* (U.S. 6927195 B2).

The Examiner acknowledges that Caswell and Bacon do not teach to double-coat the perfume particles, however the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the encapsulated perfume particles by double coating prevents premature evaporation or dissipation of the perfume particles until use. The skilled artisan would have had a reasonable expectation of successfully encapsulated particle with a longer shelf-life.

Same as the Caswell reference, Birch does not teach or suggest a melamine-formaldehyde or an acrylamide-acrylic acid co-polymer. Accordingly, the above remarks that the criteria for establishing a *prima facie* case of obviousness have not been met apply. For at least these reasons, Applicants respectfully request that this 35 U.S.C. § 103 rejection be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of rejections, and allowance of all claims now present in the application.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to the Deposit Account No. 12-1295.

Respectfully submitted,

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